

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7501

PAUL MYLES,

Defendant - Appellant,

versus

UNITED STATES OF AMERICA,

Plaintiff - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Greenville. G. Ross Anderson, Jr., District Judge. (CR-99-46; CA-01-931)

Submitted: January 24, 2005

Decided: February 17, 2005

Before KING, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Paul Myles, Appellant Pro Se. Isaac Louis Johnson, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Paul Myles seeks to appeal the district court's order denying his 28 U.S.C. § 2255 (2000) motion. Parties are accorded sixty days after the entry of the district court's final judgment or order to note an appeal when the United States is a party, Fed. R. App. P. 4(a)(1)(B), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)). The district court's order was entered on the docket on May 16, 2003. The notice of appeal was filed, at the earliest, on September 8, 2004. Because Myles failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny Myles' motion to expand the record and dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED